

REGISTRATION OF ENERGY AND ENERGY-RELATED PROJECTS UNDER THE CREATE ACT

Presented by:
RAQUEL B. ECHAGUE
Board of Investments
03 December 2021

Outline of Presentation

1. Relevant Laws on Fiscal Incentives for Energy Projects
2. Preferred Energy and Energy-Related Projects under the 2020 Investment Priorities Plan
3. Industry Tiers under the Strategic Investment Priority Plan
4. Incentives under the CREATE
5. BOI Registration Process
6. BOI Documentary Requirements

Relevant Laws on Fiscal Incentives

E.O. No. 226

Omnibus Investments Code of 1987
- *2020 Investment Priorities Plan (IPP)*

R.A. No. 11534

Corporate Recovery and Tax Incentives for Enterprises Act ("CREATE")
- *Strategic Investment Priority Plan (SIPP)*

R.A. No. 11285

Energy Efficiency and Conservation Act

R.A. No. 9513

Renewable Energy Act of 2008

R.A. No. 8479

Downstream Oil Industry Deregulation Act of 1998

EO 226 – Omnibus Investments Code of 1987

- BOI mandated to publish the annual IPP, a list of economic activities where investments are to be encouraged and may be entitled to incentives under EO 226
- Starting in 2014, the IPP became a 3-year plan
- The **2020 IPP**, was approved by the President on 18 November 2020 under Memorandum Order No. 50 and took effect on 06 December 2020.
- **Major incentives – 4-6 years Income Tax Holiday and Duty-free Importation of Capital Equipment and parts**

Relevant Laws on Fiscal Incentives

E.O. No. 226

Omnibus Investments Code of 1987
- *2020 Investment Priorities Plan (IPP)*

R.A. No. 11534

Corporate Recovery and Tax Incentives for Enterprises Act ("CREATE")
- *Strategic Investment Priority Plan (SIPP)*

R.A. No. 11285

Energy Efficiency and Conservation Act

R.A. No. 9513

Renewable Energy Act of 2008

R.A. No. 8479

Downstream Oil Industry Deregulation Act of 1998

RA 11534 – CREATE

- Took effect on 11 April 2021
- Repealed the incentives provision and other policies of EO 226
- 2020 IPP as the Transitional SIPP under Tier 1

Rule 4. SECTION 6. Mandatory Laws. – The SIPP shall include sectors or industries that are mandated by special laws to be listed in the Investment Priority Plan and/or granted incentives.

Rule 5. SECTION 2. Authority of the Investment Promotion Agencies (IPAs). – The concerned IPA has the authority to approve or disapprove the grant of tax incentives to registered projects or activities with investment capital of **(P1,000,000,000.00) and below.**

The registration of projects and grant of incentives covered by **special laws not repealed by CREATE Act shall continue to be administered by the IPA** vested with such authority.

Relevant Laws on Fiscal Incentives

E.O. No. 226

Omnibus Investments Code of 1987
- *2020 Investment Priorities Plan (IPP)*

R.A. No. 11534

Corporate Recovery and Tax Incentives for Enterprises Act (“CREATE”)
- *Strategic Investment Priority Plan (SIPP)*

R.A. No. 11285

Energy Efficiency and Conservation Act

R.A. No. 9513

Renewable Energy Act of 2008

R.A. No. 8479

Downstream Oil Industry Deregulation Act of 1998

RA 11285 – Energy Efficiency and Conservation Act

- EE projects shall be included in the IPP of the BOI
- Must be endorsed by the DOE stating that the project will meet the energy savings threshold of at least 15% at project boundary
- Self-financed projects and Energy Service Companies may qualify
- **Entitled to incentives provided under EO 226** or the Omnibus Investment Code of 1987; EE projects will now draw incentives under CREATE
- After 10 years from effectivity of the Act, inclusion of EE projects in the IPP/SIPP shall be reviewed and may be extended by BOI

Relevant Laws on Fiscal Incentives

E.O. No. 226

Omnibus Investments Code of 1987
- *2020 Investment Priorities Plan (IPP)*

R.A. No. 11534

Corporate Recovery and Tax Incentives for Enterprises Act ("CREATE")
- *Strategic Investment Priority Plan (SIPP)*

R.A. No. 11285

Energy Efficiency and Conservation Act

R.A. No. 9513

Renewable Energy Act of 2008

R.A. No. 8479

Downstream Oil Industry Deregulation Act of 1998

RA 9513 – Renewable Energy Act of 2008

- Incentives provision not repealed by CREATE
- Power generation sourced from RE sources and manufacture and fabrication of RE equipment and components.
- Must be endorsed, accredited or registered by the DOE
- Incentives:
 - Administered by the BOI:
 - Income tax holiday (7 years)
 - Duty-free importation of RE machinery, equipment and materials
 - Administered by other concerned government agencies:
 - Net Operating Loss Carry-Over (NOLCO)
 - Corporate tax rate of 10% after ITH
 - Accelerated depreciation
 - VAT- zero rate on sale of fuel or power generated
 - Cash incentive for missionary electrification
 - Tax exemption of carbon credits
 - Tax credit on domestic capital equipment and services

Relevant Laws on Fiscal Incentives

E.O. No. 226

Omnibus Investments Code of 1987
- *2020 Investment Priorities Plan (IPP)*

R.A. No. 11534

Corporate Recovery and Tax Incentives for Enterprises Act ("CREATE")
- *Strategic Investment Priority Plan (SIPP)*

R.A. No. 11285

Energy Efficiency and Conservation Act

R.A. No. 9513

Renewable Energy Act of 2008

R.A. No. 8479

Downstream Oil Industry Deregulation Act of 1998

RA 8479 – Downstream Oil Industry Deregulation Act of 1998

- Refining, storage, distribution, and marketing of petroleum products
- Must be endorsed by the DOE certifying that the applicant is a new industry participant with new investments
- Incentives:
 - Administered by the BOI:
 - Income tax holiday (5 years)
 - Additional deduction for labor expenses
 - Minimum tax and duty of three percent (3%) and value-added tax (VAT) on imported capital equipment
 - Unrestricted use of consigned equipment
 - Exemption from taxes and duties on imported spare parts
 - Administered by other concerned government agencies:
 - Tax credit on domestic capital equipment
 - Exemption from contractor's tax
 - Exemption from the real property tax on production equipment or machineries

2020 IPP/Transitional SIPP – Priority Activities

Preferred Activities

1. Charging/refueling stations for alternative energy vehicles except LPG-run vehicles
2. LNG storage and regasification facility
3. Power generation – conventional fuels
4. Waste heat recovery
5. Battery energy storage systems

Special Laws (Mandatory Listing)

1. Refining storage, marketing and distribution of petroleum products (RA 8479)
2. Renewable energy (RA 9513) – power generation, fabrication of RE equipment and components
3. Energy efficiency (RA 11285)



SIPP – Industry Tiers

The industry of the registered project or activity shall be prioritized according to National Industrial Strategy specified in the SIPP. The SIPP shall define the coverage of the tiers and provide the conditions for qualifying the activities:

Tier I

- High potential for job creation
- Sectors with market failures resulting in under provision of basic goods & services
- Value creation through innovation, upgrading, moving up the value chain
- **Essential support to sectors critical to industrial development**
- Emerging owing to potential comparative advantage

Tier II

- Activities that produce supplies, parts & components, & intermediate services that are not locally produced but are **critical to industrial development & import substituting activities**

Tier III

- R&D with Significant Value Added, Higher Productivity, Breakthroughs in Science and Health and High Paying Jobs
- Generation of new knowledge & IP registered or licensed in PH
- Commercialization of patents, industrial designs, copyrights, & utility models
- Highly technical manufacturing
- **Critical to structural transformation of the economy**

Incentives under CREATE

- ✓ Income Tax Holiday (ITH)- 4 to 7 years
- ✓ 5% Special Corporate Income Tax (SCIT) based on Gross Income Earned, in lieu of all national and local taxes- 5 to 10 years
- ✓ Enhanced Deductions
- ✓ Duty exemption on importation of Capital Equipment, raw materials, spare parts, or accessories
- ✓ VAT exemption on importation and VAT Zero-rating on local purchases

ENHANCED DEDUCTIONS

- Depreciation allowance of assets additional 10% for buildings; and additional 20% for machineries and equipment
- 50% additional deduction on labor expense
- 100% additional deduction on R&D
- 100% additional deduction on training expense
- 50% additional deduction on domestic input expense
- 50% additional deduction on power expense;
- Deduction for reinvestment allowance to manufacturing industry – the amount reinvested to a maximum of 50%
- Enhanced *Net Operating Loss Carry-Over*

Location and Industry Tier – Period of Availment

LOCATION	EXPORT MARKET ACTIVITIES			DOMESTIC MARKET ACTIVITIES		
	TIER I	TIER II	TIER III	TIER I	TIER II	TIER III
NCR	14 (4 Years of ITH and 10 Years of ED/SCIT)	15 (5 Years of ITH and 10 Years of ED/SCIT)	16 (6 Years of ITH and 10 Years of ED/SCIT)	9 (4 Years of ITH and 5 Years of ED)	10 (5 Years of ITH and 5 Years of ED)	11 (6 Years of ITH and 5 Years of ED)
METROPOLITAN AREAS AND AREAS OUTSIDE OF AND CONTIGUOUS OR ADJACENT TO NCR	15 (5 Years of ITH and 10 Years of ED/SCIT)	16 (6 Years of ITH and 10 Years of ED/SCIT)	17 (7 Years of ITH and 10 Years of ED/SCIT)	10 (5 Years of ITH and 5 Years of ED)	11 (6 Years of ITH and 5 Years of ED)	12 (7 Years of ITH and 5 Years of ED)
ALL OTHER AREAS	16 (6 Years of ITH and 10 Years of ED/SCIT)	17 (7 Years of ITH and 10 Years of ED/SCIT)	17 (7 Years of ITH and 10 Years of ED/SCIT)	11 (6 Years of ITH and 5 Years of ED)	12 (7 Years of ITH and 5 Years of ED)	12 (7 Years of ITH and 5 Years of ED)

- Export enterprise: export at least 70% of its total production or output
- Domestic market enterprise (DME): any enterprise registered with IPA other than export enterprise
- ITH: income tax holiday
- SCIT: special corporate income tax rate for export enterprise, tax rate of 5% GIE
- ED: enhanced deductions



Power of the President

- ❑ Upon the recommendation of the FIRB, the President may:
 - ✓ Modify the mix, period or manner of availment of incentives provided under CREATE; or
 - ✓ Craft the appropriate financial support package for a highly desirable project or a specific industrial activity.
- ❑ For highly desirable projects-minimum investment capital of Php50B or at least 10,000 direct local employment generation.
- ❑ Total Period of availment will not exceed forty (40) years, and ITH availment will not exceed 8 years.
- ❑ For this purpose, financial support includes utilization of government resources such as land use, water appropriation, power provision, budgetary support provision under the Annual General Appropriations Act.

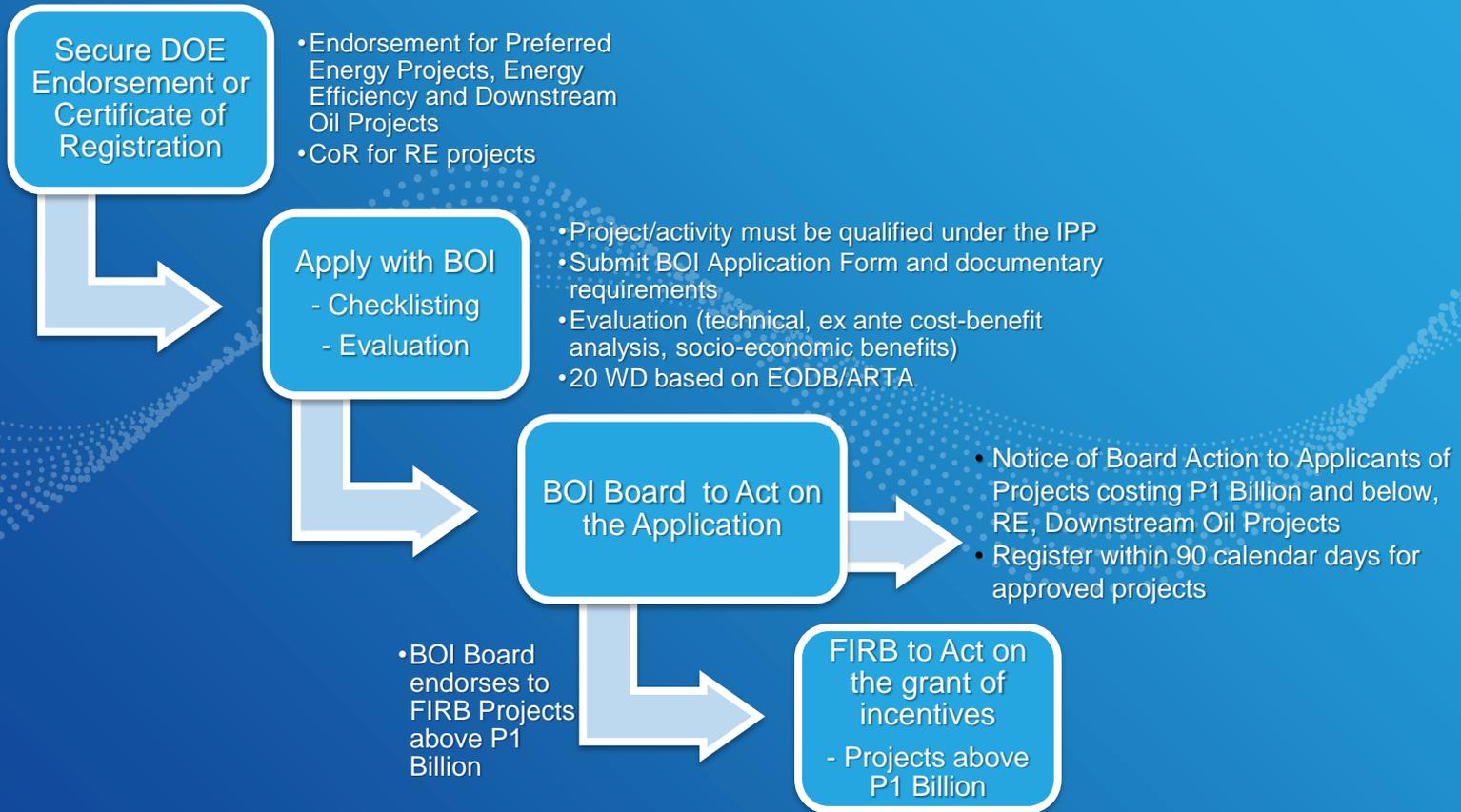
MAKE IT HAPPEN



Transitory Provisions

- **Those under ITH** - continue to avail based on their existing terms and conditions
- **Those under the 5% GIE regime** - 10-year transition on 5% GIE

BOI Registration Process



BOI Documentary Requirements

- Application Form, duly accomplished, signed and notarized
- Financial Projections up to 20th year of commercial operations (complete with P&L, Cost of Goods Sold, Operating Expenses, Cash Flow Statements, Balance Sheets)
- SEC Certificate of Incorporation with Articles of Incorporation and By-Laws
- Audited Financial Statements for the past 3 years
- General Information Sheet (GIS) - latest
- Duly signed and notarized Secretary's Certificate authorizing the firm's official representative to BOI
- Google Map
- Business Model
- Integrity Pledge
- DOE Endorsement or Certificate of Registration for RE Projects

RESOURCE-BASED INDUSTRIES SERVICE



STAY CONNECTED WITH **BOI**



www.boi.gov.ph



boiphilippines



boardofinvestmentsphilippines

RESOURCE-BASED INDUSTRIES SERVICE

- Energy Division
- Agri-Based Industries Division
- Project Evaluation and Registration Division

3rd Floor, Industry & Investments Building
385 Sen. Gil J. Puyat Avenue, Makati City
Trunk Line: (+632) 8897-6682 local 208

Direct Line: (+632) 8895-3977

Tel./Fax: (+632) 8896-8453